



Federal Communications Commission
Washington, D.C. 20554

September 9, 2005

DA 05- 2437

Mr. Ameer Flippin
2053 Wilson Road
Memphis, TN 38116

Re: Petition for Reconsideration of Auction No. 58 Qualified Bidders Public Notice

Dear Mr. Flippin:

This letter denies your petition for reconsideration of the Commission's public notice announcing which applicants were qualified to bid in Auction No. 58,¹ an auction which has since concluded.² In your petition, you ask to be "reconsidered" as a bidder.³

You offer only one argument in support of your request – that you filed a "paper FCC Form 175" for Auction No. 58 and "placed bids" for all licenses being auctioned. Neither that argument, nor the procedural history underlying your request, justifies reconsideration of the *Auction No. 58 Qualified Bidders Public Notice*. To be eligible to participate in Auction No. 58, an applicant was required to submit an electronic FCC Form 175 (a "short-form" application) by the November 30, 2004, deadline and an appropriate upfront payment by the December 29, 2004, deadline, in accordance with our public notices and auction rules.⁴ You did not meet these threshold requirements for participation in the auction. Rather, on January 3, 2005, after both deadlines had passed, you sought extensions of time in which to file your short-form application and upfront payment.⁵ We denied these requests in a January 25, 2005, order,⁶ and you did not seek reconsideration of that decision.

¹ "Broadband PCS Spectrum Auction; 35 Bidders Qualified to Participate in Auction No. 58," *Public Notice*, 20 FCC Rcd 496 (2005) ("*Auction No. 58 Qualified Bidders Public Notice*").

² The auction closed on February 15, 2005. "Broadband PCS Auction Closes; Winning Bidders Announced for Auction No. 58," *Public Notice*, 20 FCC Rcd 3703 (2005).

³ Ameer Flippin, Ex-Parte Motion and Petition for Reconsideration (received Jan. 27, 2005).

⁴ See "Broadband PCS Spectrum Auction Start Date Rescheduled for January 26, 2005," *Public Notice*, 19 FCC Rcd 19,945 (2004); "Broadband PCS Spectrum Auction Scheduled for January 12, 2005; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 58," *Public Notice*, 19 FCC Rcd 18,190, 18,201-02 (2004); 47 C.F.R. §§ 1.2105; 1.2106.

⁵ Ameer Flippin, Ex-Parte Motion and Petition for a Time Extension, Waiver, Amendment, and Modification of Rules in PCS/Broadband Auction #58; Particularly 1) A Time Extension in Which to File Short Form 175, 2) A Waiver or Extension of Down Payment Deadline of December 29th, 2004, and 3) Modification of Auction Date to Be Postponed for 180 Days; and Memorandum in Support Thereof by *Pro Se* bidder, Ameer Flippin (filed Jan. 3, 2005).

⁶ In the same order, we also denied your request for a 180-day postponement of Auction No. 58. See Letter from Gary D. Michaels, Deputy Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, to Ameer Flippin, 20 FCC Rcd 1599 (2005).

On January 10, 2005, you submitted in hard copy a document you purport to be your FCC Form 175. You did not make an upfront payment, nor, as a non-applicant, could you have. Further, as a non-applicant, you could not have “placed bids” in the auction. While you did attempt to send us “bids” via facsimile machine, the Commission has already explained that “[y]our submission of bids by facsimile d[id] nothing to change the fact that you were not, in accordance with clearly articulated Commission rules and policies, a participant in Auction No. 58.”⁷

Thus, you have presented us with no basis in law or fact on which to grant your petition for reconsideration of the *Auction No. 58 Qualified Bidders Public Notice*. We note that, in the past four months, the Commission has released three other orders denying various requests you have made with regard to Auction No. 58, as well as Auction No. 59, and in none of these cases has the Commission found merit in any of your arguments.⁸ The Commission has stated that a filing may be deemed frivolous if there is no good ground to support it.⁹ Under this standard, your instant petition qualifies as frivolous. We caution you against the filing of additional frivolous pleadings. As the Commission has warned, it “intends to fully utilize its authority to discourage and deter the filing of [frivolous] pleadings and to impose appropriate sanctions where such pleadings are filed.”¹⁰

For the reasons set forth above, your petition for reconsideration of the *Auction No. 58 Qualified Bidders Public Notice* is denied. This action is taken under authority delegated pursuant to Section 0.331 of the Commission’s rules.¹¹

Sincerely,

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

⁷ Letter from Michael A. Ferrante, Associate Chief, Mobility Division, Wireless Telecommunications Bureau, 20 FCC Rcd 8915 (2005) (“*Ferrante Letter*”).

⁸ See Letter from Gary D. Michaels, Deputy Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, to Mr. Ameer Flippin, 20 FCC Rcd 8750, 8751a n.15 (2005) (“[W]e find that the expense of time and resources to address what appear to be frivolous arguments is a detriment to the public interest.”); see also *Ferrante Letter*, 20 FCC Rcd at 8915-16; Letter from Jeffrey S. Cohen, Deputy Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau to Mr. Ameer Flippin, DA 05-1951 (rel. July 6, 2005). We note that the United States Court of Appeals for the District of Columbia Circuit recently dismissed as frivolous petitions for review you had filed with that court with regard to Auction No. 58. See *In re Ameer Flippin*, No. 05-1026 (D.C. Cir. June 10, 2005) (unpublished) (Noting that your motion for leave to proceed *in forma pauperis* was irreconcilable with your claim that you were wrongfully denied the opportunity to participate in a Federal Communications Commission auction with an upfront payment requirement.).

⁹ See “Commission Taking Tough Measures against Frivolous Pleadings,” *Public Notice*, 11 FCC Rcd 3030 (1996).

¹⁰ *Id.*

¹¹ 47 C.F.R. § 0.331.